The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YUSUKE KIMATA and SHUJI YAMAGUCHI

Appeal No. 2006-1054
Application No. 09/739,619

ON BRIEF

Before BARRY, BLANKENSHIP, and MACDONALD, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-21, which are all the claims in the application.

We affirm-in-part.

BACKGROUND

The invention relates to a picture-phone device having a camera and monitor, with apparatus for guiding a call-sender's line of sight toward the camera. Claim 1, the sole independent claim, is reproduced below.

> 1. A picture-phone device for an operator to exchange images and voices with the party on the other end via a communication circuit comprising:
>
> an imaging portion,
>
> an image display portion, and
>
> means for guiding the operator's line of sight toward said imaging portion.

The examiner relies on the following references:

Hiroaki	5,786,846	Jul. 28, 1998
Kobayashi[1]	JP 56-152387	Nov. 25, 1981
Ota[2]	JP 63-276352	Nov. 14, 1988
Leppisaari et al. (Lepisaari)	EP 0 884 905 A2	Dec. 16, 1998

Claims 1 and 2 stand rejected under 35 U.S.C. § 102 as being unpatentable over Hiroaki.

Claims 3-9 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hiroaki and Ota.

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[1] With English language translation provided by the USPTO (dated Oct. 2004). A copy of the translation should mail as an attachment to this decision.

[2] With English language Abstract provided by the JPO. A complete English translation of the document has been provided by the USPTO (dated Mar. 2005). A copy of the complete translation should mail as an attachment to this decision.

Claims 10 and 11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hiroaki and Leppisaari.

Claims 12-15 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hiroaki, Leppisaari, and Ota.

Claims 16 and 17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hiroaki and Kobayashi.

Claims 18-21 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hiroaki, Kobayashi, and Ota.

We refer to the Final Rejection (mailed Jan. 12, 2004) and the Examiner's Answer (mailed May 27, 2004) for a statement of the examiner's position and to the Brief (filed Apr. 9, 2004) and the Reply Brief (filed Jul. 12, 2004) for appellants' position with respect to the claims which stand rejected.

OPINION

Appellants submit that Hiroaki does not disclose a "means for guiding the operator's line of sight toward said imaging portion," thus failing to anticipate instant claim 1. We find that the means for guiding the operator's line of sight toward the imaging portion (or camera) in appellants' disclosure is embodied as a light flashing system 130 (Fig. 1), an arrow 150 on monitor 110 (spec. at 6, ll. 4-7), or a caption on the monitor that may comprise characters, patterns, or backgrounds (id. at ¶ bridging pages 14 and 15).

Hiroaki describes several ways that the user of a video communication terminal unit is informed that he or she is not properly framed by the camera. Of particular interest are the embodiments shown in Figures 13A and 13B. In Figure 13A, arrow 1301 may indicate the direction in which the user should move. In Figure 13B, a message 1302 is displayed, indicating that the user should move to the right. Hiroaki col. 15, l. 53 - col. 16, l. 21.

We have considered all of appellants' arguments in the briefs. However, we agree with the examiner that Hiroaki describes means for guiding the operator's line of sight toward the imaging portion within the ambit of claim 1. Appellants' arguments seem to imply that instant claim 1 is drawn to a process that requires particular interaction between a human being and the picture-phone device. The claim, however, is drawn to an apparatus. The apparatus does not, and cannot, control how a user might interact with the system.

Moreover, the claim does not recite, for example, that the operator's line of sight is directed to the imaging portion. The claim recites that the operator's line of sight is directed "toward" the imaging portion. The above-noted arrow or text shown in Hiroaki's figures indicate that the user should move toward the camera. The user's line of sight would naturally move toward the camera when the user moves in the direction of the camera. The arrow or text described by Hiroaki might not indicate to the user that the user should turn his or her head and fix his or her eyes on the camera. However, instant claim 1 does not require such.

The law of anticipation does not require that a reference "teach" what an applicant's disclosure teaches. Assuming that a reference is properly "prior art," it is only necessary that the claims "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983). We are unconvinced that Hiroaki fails to disclose all the structures that are required by instant claim 1. We sustain the § 102 rejection of claim 1, and of depending claim 2 not separately argued.

Turning to the § 103 rejections and claims 3, 12, and 18, appellants argue in the Brief that Ota fails to teach or suggest any ability of the telephone terminal to determine whether the telephone terminal is in use, according to a voice input signal. The argument is further refined in the Reply Brief.

Representative claim 3 recites "control means for controlling indicating means[3] in response to a result of whether the picture-phone is in use or not according to a voice input signal output from a microphone." Appellants' disclosed invention includes, inter alia, a comparator that determines whether the phone is in use or not by comparing the signal levels of the voice signal with the signal level of a reference signal. (Spec. at 10, ll. 9-15; Fig. 4.)

[3] The claim should recite "said" indicating means, as claim 3 depends from claim 2, which sets forth the "indicating means."

According to the statement of the rejection, Ota discloses automatic voice dial telephone terminal equipment that determines whether the phone is in use or not according to a voice input signal output from a microphone. The rejection refers to the (JPO) Abstract of Ota. (Answer at 4.)

According to Abstract of Ota, the system relates to a voice recognition system for automatic dialing of a telephone number. The system recognizes the spoken name of a party who is to be called. The telephone number of the party is displayed; the party's name may also be displayed. The user may then depress a key to dial the party's number.

We do not find any teaching with respect to whether the phone is in use or not according to a voice input signal output from a microphone, in the Abstract or in the full English translation of Ota. We do not see how the teachings of Ota might apply to Hiroaki's system, except perhaps to suggest using voice recognition and automatic dialing with the video communication terminal disclosed by Ota. We agree with appellants that a prima facie case for obviousness has not been set forth for the subject matter of claims 3, 12, and 18.

Appellants contend in the Brief that claims 1, 2, 4-11, 13-17, and 19-21 stand or fall together and that claims 3, 12, and 18 stand or fall together. However, claims 4 and 5 depend from claim 3. Claims 13, 14, and 15 depend from claim 12. Claims 19 through 21 depend from claim 18. Since we are persuaded that claims 3, 12, and 18 have not been shown to be unpatentable over the combination of Hiroaki and Ota, and

the rejections applied against the depending claims do not remedy the basic deficiency in the rejection applied against claims 3, 12, and 18, we cannot sustain the § 103 rejection of claims 3-5, 12-15, and 18-21.

We note that the rejection of claims 3-9 under 35 U.S.C. § 103 as being unpatentable, nominally, over Hiroaki and Ota does not rely on Ota as to claims 6 through 9. Nor is Ota named in the rejection of claims 16 and 17, notwithstanding that the claims depend from claim 9. Consistent with appellants' grouping of the claims, claims 2, 6-11, 16, and 17 fall with instant claim 1 because no error has been demonstrated in their rejection.

CONCLUSION

The § 102 rejection of claims 1 and 2 is affirmed. The § 103 rejection of claims 6-11, 16, and 17 is affirmed. The § 103 rejection of claims 3-5, 12-15, and 18-21 is reversed. The examiner's decision is thus affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a). See 37 CFR § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

LANCE LEONARD BARRY
Administrative Patent Judge

HOWARD B. BLANKENSHIP
Administrative Patent Judge

ALLEN R. MACDONALD
Administrative Patent Judge

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) INTERFERENCES

SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037